

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PHILIP H. SHUM,

Plaintiff,

v.

BAC BANK HOME LOANS, N.A., et al.,

Defendants.

Case No. 2:13-cv-001890-JAD-NJK

Order Dismissing Action

On November 1, 2013, the Court entered an Order, Doc. 4, requiring Plaintiff to file a Certificate of Interested Parties in compliance with Local Rule 7.1-1 on or before November 7, 2013. The Order warned Plaintiff that his failure to comply “may result in the issuance of an order to show cause why sanctions should not be imposed.” *Id.* Plaintiff failed to file his Certificate of Interested Parties and did not request an extension of time in which to do so.

On November 15, 2013, the Court entered an Order to Show Cause, Doc. 5, based on Plaintiff’s failure to comply with the Court’s previous Order. The Court directed Plaintiff to show cause in writing, no later than November 22, 2103, why he had not complied with the Court’s previous Order. The Order to Show Cause advised Plaintiff that “[f]ailing to comply with the Local Rules of Practice, the Federal Rules of Civil Procedure, and the Court’s orders may result in sanctions, up to and including case-dispositive sanctions.” Plaintiff failed to file a response to the Order to Show Cause and did not request an extension of time in which to do so. On November 26, 2013, Magistrate Judge Nancy Koppe issued a Report and Recommendation in which she

1 recommended "that Plaintiff's Complaint be DISMISSED unless Plaintiff files the Certificate of
2 Interested Parties no later than December 11, 2013." Doc. 6 at 2. Plaintiff filed no Certificate of
3 Interested Parties.

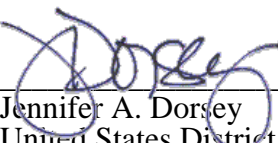
4 On December 13, 2013, Defendants moved to dismiss this entire case for failure to state a
5 claim under FRCP 12(b)(6). Doc. 8. Plaintiff was timely provided with the notice required under
6 *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc), *Wyatt v. Terhune*, 315 F.3d 1108 (9th Cir.
7 2003), and *Klinge v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988). Doc. 12. Nevertheless, Plaintiff
8 failed to file any response to Defendants' Motion to Dismiss.

9 Local Rule 7-2(d) provides, "The failure of an opposing party to file points and authorities in
10 response to any Motion shall constitute a consent to the granting of the motion." As Plaintiff was
11 warned that his failure to file a certificate of interested parties would result in the dismissal of his
12 case, and he has filed no opposition to the Defendants' motion to dismiss, and with good cause
13 appearing and no reason to delay,

14 **IT IS HEREBY ORDERED** that the Magistrate Judge's Report and Recommendation [#6]
15 **is adopted** in its entirety;

16 **IT IS FURTHER ORDERED** that the Motion to Dismiss [#8] **is GRANTED** and this case
17 is hereby **DISMISSED**. The Clerk of Court shall close this case.

18 DATED this 13th day of February, 2014.

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21 Jennifer A. Dorsey
22 United States District Court Judge
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